

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition  
to Revoke Probation Against:

JUDITH L. SPENCER RICE  
3893 Coolidge Avenue  
Oakland, CA 94602  
Registered Nurse License No. 320930

Respondent

Case No. 2004-37


OAH No. N2007040547

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 6, 2007.

IT IS SO ORDERED November 6, 2007



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 REBECCA HEINSTEIN, State Bar No. 173202  
Deputy Attorney General  
4 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation and Petition to  
12 Revoke Probation Against:

13 **JUDITH L. SPENCER RICE**  
3893 Coolidge Avenue  
14 Oakland, CA 94602

15 Registered Nurse License No. 320930

Case No. 2004-37

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
22 represented in this matter by Edmund G. Brown, Jr., Attorney General of the State of California,  
23 by Rebecca M. Heinstein, Deputy Attorney General.

24 2. Judith L. Spencer Rice (Respondent) is representing herself in this  
25 proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about August 31, 1980, the Board of Registered Nursing issued  
27 Registered Nurse License Number 320930 to Judith L. Spencer Rice (Respondent). The license  
28 was in full force and effect at all times relevant to the charges brought herein and will expire on

1 January 31, 2008, unless renewed.

2 **JURISDICTION**

3 4. Accusation and Petition to Revoke Probation No. 2004-37 was filed before  
4 the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently  
5 pending against Respondent. The Accusation and Petition to Revoke Probation and all other  
6 statutorily required documents were properly served on Respondent on March 29, 2007.  
7 Respondent timely filed her Notice of Defense contesting the Accusation and Petition to Revoke  
8 Probation. A copy of Accusation and Petition to Revoke Probation No. 2004-37 is attached as  
9 Exhibit A and incorporated herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 7. Respondent has carefully read, and understands the charges and allegations  
12 in Accusation and Petition to Revoke Probation No. 2004-37. Respondent has also carefully  
13 read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

14 8. Respondent is fully aware of her legal rights in this matter, including the  
15 right to a hearing on the charges and allegations in the Accusation and Petition to Revoke  
16 Probation; the right to be represented by counsel at her own expense; the right to confront and  
17 cross-examine the witnesses against her; the right to present evidence and to testify on her own  
18 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the  
19 production of documents; the right to reconsideration and court review of an adverse decision;  
20 and all other rights accorded by the California Administrative Procedure Act and other applicable  
21 laws.

22 9. Respondent voluntarily, knowingly, and intelligently waives and gives up  
23 each and every right set forth above.

24 **CULPABILITY**

25 10. Respondent admits the truth of each and every charge and allegation in  
26 Accusation and Petition to Revoke Probation No. 2004-37.

27 11. Respondent agrees that her Registered Nurse License is subject to  
28 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the

1 Disciplinary Order below.

2 **CONTINGENCY**

3 12. This stipulation shall be subject to approval by the Board of Registered  
4 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the  
5 Board of Registered Nursing may communicate directly with the Board regarding this stipulation  
6 and settlement, without notice to or participation by Respondent. By signing the stipulation,  
7 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind  
8 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt  
9 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall  
10 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
11 between the parties, and the Board shall not be disqualified from further action by having  
12 considered this matter.

13 13. The parties understand and agree that facsimile copies of this Stipulated  
14 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
15 force and effect as the originals.

16 14. In consideration of the foregoing admissions and stipulations, the parties  
17 agree that the Board may, without further notice or formal proceeding, issue and enter the  
18 following Disciplinary Order:

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that Registered Nurse License No. 320930 issued to  
21 Respondent Judith L. Spencer Rice is revoked. However, the revocation is stayed and  
22 Respondent's prior probationary term, which was set to expire on March 31, 2007, is extended  
23 three (3) years from the effective date of this Decision and Order, on the following terms and  
24 conditions.

25 **Severability Clause.** Each condition of probation contained herein is a separate  
26 and distinct condition. If any condition of this Order, or any application thereof, is declared  
27 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
28 applications thereof, shall not be affected. Each condition of this Order shall separately be valid

1 and enforceable to the fullest extent permitted by law.

2           1.       **Obey All Laws.** Respondent shall obey all federal, state and local laws.  
3 A full and detailed account of any and all violations of law shall be reported by Respondent to  
4 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
5 compliance with this condition, Respondent shall submit completed fingerprint forms and  
6 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
7 as part of the licensure application process.

8           **Criminal Court Orders:** If Respondent is under criminal court orders, including  
9 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
10 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

11           2.       **Comply with the Board's Probation Program.** Respondent shall fully  
12 comply with the conditions of the Probation Program established by the Board and cooperate  
13 with representatives of the Board in its monitoring and investigation of the Respondent's  
14 compliance with the Board's Probation Program. Respondent shall inform the Board in writing  
15 within no more than 15 days of any address change and shall at all times maintain an active,  
16 current license status with the Board, including during any period of suspension.

17           Upon successful completion of probation, Respondent's license shall be fully  
18 restored.

19           3.       **Report in Person.** Respondent, during the period of probation, shall  
20 appear in person at interviews/meetings as directed by the Board or its designated  
21 representatives.

22           4.       **Residency, Practice, or Licensure Outside of State.** Periods of  
23 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
24 of this probation time period. Respondent's probation is tolled, if and when she resides outside  
25 of California. Respondent must provide written notice to the Board within 15 days of any change  
26 of residency or practice outside the state, and within 30 days prior to re-establishing residency or  
27 returning to practice in this state.

28 / / /

1 Respondent shall provide a list of all states and territories where she has ever been  
2 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
3 provide information regarding the status of each license and any changes in such license status  
4 during the term of probation. Respondent shall inform the Board if she applies for or obtains a  
5 new nursing license during the term of probation.

6 5. **Submit Written Reports.** Respondent, during the period of probation,  
7 shall submit or cause to be submitted such written reports/declarations and verification of actions  
8 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
9 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
10 Program. Respondent shall immediately execute all release of information forms as may be  
11 required by the Board or its representatives.

12 Respondent shall provide a copy of this Decision to the nursing regulatory agency  
13 in every state and territory in which she has a registered nurse license.

14 6. **Function as a Registered Nurse.** Respondent, during the period of  
15 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
16 hours per week for 6 consecutive months or as determined by the Board.

17 For purposes of compliance with the section, "engage in the practice of registered  
18 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
19 work in any non-direct patient care position that requires licensure as a registered nurse.

20 The Board may require that advanced practice nurses engage in advanced practice  
21 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
22 Board.

23 If Respondent has not complied with this condition during the probationary term,  
24 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
25 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
26 grant an extension of Respondent's probation period up to one year without further hearing in  
27 order to comply with this condition. During the one year extension, all original conditions of  
28 probation shall apply.

1                   7.       **Employment Approval and Reporting Requirements.** Respondent  
2 shall obtain prior approval from the Board before commencing or continuing any employment,  
3 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
4 performance evaluations and other employment related reports as a registered nurse upon request  
5 of the Board.

6                   Respondent shall provide a copy of this Decision to her employer and immediate  
7 supervisors prior to commencement of any nursing or other health care related employment.

8                   In addition to the above, Respondent shall notify the Board in writing within  
9 seventy-two (72) hours after she obtains any nursing or other health care related employment.  
10 Respondent shall notify the Board in writing within seventy-two (72) hours after she is  
11 terminated or separated, regardless of cause, from any nursing, or other health care related  
12 employment with a full explanation of the circumstances surrounding the termination or  
13 separation.

14                   8.       **Supervision.** Respondent shall obtain prior approval from the Board  
15 regarding Respondent's level of supervision and/or collaboration before commencing or  
16 continuing any employment as a registered nurse, or education and training that includes patient  
17 care.

18                   Respondent shall practice only under the direct supervision of a registered nurse  
19 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
20 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
21 are approved.

22                   Respondent's level of supervision and/or collaboration may include, but is not  
23 limited to the following:

24                   (a)   Maximum - The individual providing supervision and/or collaboration is  
25 present in the patient care area or in any other work setting at all times.

26                   (b)   Moderate - The individual providing supervision and/or collaboration is in  
27 the patient care unit or in any other work setting at least half the hours Respondent works.

28                   (c)   Minimum - The individual providing supervision and/or collaboration has

1 person-to-person communication with Respondent at least twice during each shift worked.

2 (d) Home Health Care - If Respondent is approved to work in the home health  
3 care setting, the individual providing supervision and/or collaboration shall have person-to-  
4 person communication with Respondent as required by the Board each work day. Respondent  
5 shall maintain telephone or other telecommunication contact with the individual providing  
6 supervision and/or collaboration as required by the Board during each work day. The individual  
7 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
8 site visits to patients' homes visited by Respondent with or without Respondent present.

9 9. **Employment Limitations.** Respondent shall not work for a nurse's  
10 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
11 traveling nurse, or for an in-house nursing pool.

12 Respondent shall not work for a licensed home health agency as a visiting nurse  
13 unless the registered nursing supervision and other protections for home visits have been  
14 approved by the Board. Respondent shall not work in any other registered nursing occupation  
15 where home visits are required.

16 Respondent shall not work in any health care setting as a supervisor of registered  
17 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
18 nurses and/or unlicensed assistive personnel on a case-by-case basis.

19 Respondent shall not work as a faculty member in an approved school of nursing  
20 or as an instructor in a Board approved continuing education program.

21 Respondent shall work only on a regularly assigned, identified and predetermined  
22 worksite(s) and shall not work in a float capacity.

23 If Respondent is working or intends to work in excess of 40 hours per week, the  
24 Board may request documentation to determine whether there should be restrictions on the hours  
25 of work.

26 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall  
27 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
28 than six months prior to the end of her probationary term.



1 Respondent shall obtain prior approval from the Board before enrolling in the  
2 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
3 completion for the above required course(s). The Board shall return the original documents to  
4 Respondent after photocopying them for its records.

5 11. **Cost Recovery.** Respondent shall pay the amount of \$3,175.00, which is  
6 the balance of the cost recovery awarded in the prior Decision and Order No. 2004-37, effective  
7 March 31, 2004. Respondent shall be permitted to pay these costs in a payment plan approved by  
8 the Board, with payments to be completed no later than three months prior to the end of the  
9 probation term.

10 If Respondent has not complied with this condition during the probationary term,  
11 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
12 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
13 grant an extension of Respondent's probation period up to one year without further hearing in  
14 order to comply with this condition. During the one year extension, all original conditions of  
15 probation will apply.

16 12. **Violation of Probation.** If Respondent violates the conditions of her  
17 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
18 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's  
19 license.

20 If during the period of probation, an accusation or petition to revoke probation has  
21 been filed against Respondent's license or the Attorney General's Office has been requested to  
22 prepare an accusation or petition to revoke probation against Respondent's license, the  
23 probationary period shall automatically be extended and shall not expire until the accusation or  
24 petition has been acted upon by the Board.

25 13. **License Surrender.** During Respondent's term of probation, if she ceases  
26 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
27 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
28 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to

1 take any other action deemed appropriate and reasonable under the circumstances, without  
2 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
3 will no longer be subject to the conditions of probation.

4 Surrender of Respondent's license shall be considered a disciplinary action and  
5 shall become a part of Respondent's license history with the Board. A registered nurse whose  
6 license has been surrendered may petition the Board for reinstatement no sooner than the  
7 following minimum periods from the effective date of the disciplinary decision:

8 (1) Two years for reinstatement of a license that was surrendered for any  
9 reason other than a mental or physical illness; or

10 (2) One year for a license surrendered for a mental or physical illness.

11 14. **Complete a Refresher Course.** Within such time period as shall be  
12 designated by the Board, Respondent shall, at her expense, enroll and successfully complete a  
13 refresher course(s) or equivalent set of courses.

14 Respondent shall obtain prior approval from the Board before enrolling in the  
15 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
16 completion for the above required course(s). The Board shall return the original documents to  
17 Respondent after photocopying them for its records.

18 15. **Physical Examination.** During the period of probation, the Board  
19 reserves the right, if necessary, to order Respondent to undergo a physical examination.  
20 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician  
21 assistant, who is approved by the Board before the assessment is performed, submit an  
22 assessment of the Respondent's physical condition and capability to perform the duties of a  
23 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
24 medically determined, a recommended treatment program will be instituted and followed by the  
25 Respondent with the physician, nurse practitioner, or physician assistant providing written  
26 reports to the Board on forms provided by the Board.

27 If Respondent is determined to be unable to practice safely as a registered nurse,  
28 the licensed physician, nurse practitioner, or physician assistant making this determination shall

1 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
2 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
3 shall immediately cease practice and shall not resume practice until notified by the Board.  
4 During this period of suspension, Respondent shall not engage in any practice for which a license  
5 issued by the Board is required until the Board has notified Respondent that a medical  
6 determination permits Respondent to resume practice. This period of suspension will not apply  
7 to the reduction of this probationary time period.

8           If Respondent fails to have the above assessment submitted to the Board within  
9 the time directed by Board staff, Respondent shall immediately cease practice and shall not  
10 resume practice until notified by the Board. This period of suspension will not apply to the  
11 reduction of this probationary time period. The Board may waive or postpone this suspension  
12 only if significant, documented evidence of mitigation is provided. Such evidence must establish  
13 good faith efforts by Respondent to obtain the assessment, and a specific date for compliance  
14 must be provided. Only one such waiver or extension may be permitted.

15           **16. Participate in Treatment/Rehabilitation Program for Chemical**  
16 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary  
17 period or shall have successfully completed prior to commencement of probation a Board-  
18 approved treatment/rehabilitation program of at least six months duration. As required, reports  
19 shall be submitted by the program on forms provided by the Board. If Respondent has not  
20 completed a Board-approved treatment/rehabilitation program prior to commencement of  
21 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
22 a program. If a program is not successfully completed within the first nine months of probation,  
23 the Board shall consider Respondent in violation of probation.

24           Based on Board recommendation, each week Respondent shall be required to  
25 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
26 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed  
27 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
28 equivalent shall be added. Respondent shall submit dated and signed documentation confirming

1 such attendance to the Board during the entire period of probation. Respondent shall continue  
2 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
3 mental health examiner and/or other ongoing recovery groups.

4           **17. Abstain from Use of Controlled Substances or Psychotropic (Mood-**  
5 **Altering) Drugs.** Respondent shall completely abstain from the possession, injection or  
6 consumption by any route of all controlled substances or psychotropic (mood altering) drugs,  
7 including alcohol, except when the same are ordered by a health care professional legally  
8 authorized to do so as part of documented medical treatment. Respondent shall have sent to the  
9 Board, in writing and within fourteen (14) days, by the prescribing health professional, a report  
10 identifying the medication, dosage, the date the medication was prescribed, the Respondent's  
11 prognosis, the date the medication will no longer be required, and the effect on the recovery plan,  
12 if appropriate.

13           Respondent shall identify for the Board a single physician, nurse practitioner or  
14 physician assistant who shall be aware of Respondent's history of substance abuse and will  
15 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
16 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
17 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
18 condition. If any substances considered addictive have been prescribed, the report shall identify a  
19 program for the time limited use of any such substances.

20           The Board may require the single coordinating physician, nurse practitioner, or  
21 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
22 addictive medicine.

23           **18. Submit to Tests and Samples.** Respondent, at her expense, shall  
24 participate in a random, biological fluid testing or a drug screening program which the Board  
25 approves. The length of time and frequency will be subject to approval by the Board.  
26 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
27 number at all times. Respondent shall also ensure that messages may be left at the telephone  
28 number when she is not available and ensure that reports are submitted directly by the testing

1 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
2 to the Board by the program and Respondent shall be considered in violation of probation.

3 In addition, Respondent, at any time during the period of probation, shall fully  
4 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
5 tests and samples as the Board or its representatives may require for the detection of alcohol,  
6 narcotics, hypnotics, dangerous drugs, or other controlled substances.

7 If Respondent has a positive drug screen for any substance not legally authorized  
8 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
9 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
10 from practice pending the final decision on the petition to revoke probation or the accusation.  
11 This period of suspension will not apply to the reduction of this probationary time period.

12 If Respondent fails to participate in a random, biological fluid testing or drug  
13 screening program within the specified time frame, Respondent shall immediately cease practice  
14 and shall not resume practice until notified by the Board. After taking into account documented  
15 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
16 Board may suspend Respondent from practice pending the final decision on the petition to  
17 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
18 this probationary time period.

19 **19. Mental Health Examination.** During the period of probation, the Board  
20 reserves the right, if necessary, to order Respondent to undergo a mental health examination  
21 including psychological testing as appropriate to determine her capability to perform the duties of  
22 a registered nurse. The examination will be performed by a psychiatrist, psychologist or other  
23 licensed mental health practitioner approved by the Board. The examining mental health  
24 practitioner will submit a written report of that assessment and recommendations to the Board.  
25 All costs are the responsibility of Respondent. Recommendations for treatment, therapy or  
26 counseling made as a result of the mental health examination will be instituted and followed by  
27 Respondent.

28 If Respondent is determined to be unable to practice safely as a registered nurse,

the licensed mental health care practitioner making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Respondent that a mental health determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the time directed by Board staff, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

20. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

## ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: August 3, 2007

Judith L Spencer Rice RA  
JUDITH L. SPENCER RICE  
Respondent

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28


**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 8/8/07.

EDMUND G. BROWN JR., Attorney General  
of the State of California

FRANK H. PACOE  
Supervising Deputy Attorney General

  
REBECCA HEINSTEIN  
Deputy Attorney General

Attorneys for Complainant

**Exhibit A**

**Accusation and Petition to Revoke Probation No. 2004-37**



1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 FRANK PACOE  
Supervising Deputy Attorney General  
3 REBECCA M. HEINSTEIN, State Bar No. 173202  
Deputy Attorney General  
4 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8  
9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation and Petition to  
Revoke Probation Against:

Case No. 2004-37

13 **JUDITH L. SPENCER RICE**  
14 3893 Coolidge Avenue  
Oakland, CA 94602

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

15 Registered Nurse License No. 320930

16 Respondent.  
17

18 Complainant alleges:  
19

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation and  
22 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board  
23 of Registered Nursing, Department of Consumer Affairs.

24 2. On or about August 31, 1980, the Board of Registered Nursing issued  
25 Registered Nurse License No. 320930 to Judith L. Spencer Rice (Respondent). The license was  
26 in full force and effect at all times relevant to the charges brought herein, and will expire on  
27 January 31, 2008, unless renewed.

28 / / /

## 1

2

## 8

9

3

8

Q

21

2

23

6

7

1 nurse is deemed to be a conviction within the meaning of this article. The board may order the  
2 license or certificate suspended or revoked, or may decline to issue a license or certificate, when  
3 the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or  
4 when an order granting probation is made suspending the imposition of sentence, irrespective of  
5 a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such  
6 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the  
7 verdict of guilty, or dismissing the accusation, information or indictment.”

8           8. Title 16, California Code of Regulations, section 1444, provides, in  
9 relevant part that a conviction or act shall be considered to be substantially related to the  
10 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the  
11 present or potential unfitness of a registered nurse to practice in a manner consistent with the  
12 public health, safety, or welfare.

13           9. Section 2762 of the Code states, in pertinent part, that in addition to other  
14 acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice  
15 Act], it is unprofessional conduct for a person licensed under this chapter to do any of the  
16 following:

17           . . . . .

18           (b) Use any controlled substance as defined in Division 10 (commencing with  
19 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as  
20 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or  
21 injurious to himself or herself, any other person, or the public or to the extent that such use  
22 impairs his or her ability to conduct with safety to the public the practice authorized by his or her  
23 license.

24           . . . . .

25           10. Section 125.3 of the Code provides, in pertinent part, that the Board may  
26 request the administrative law judge to direct a licensee found to have committed a violation or  
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
28 and enforcement of the case.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

## 2

## 3

4  
5  
6  
7

8  
9  
10  
11  
12  
13  
14  
15  
16

17  
18  
19  
20  
21  
22

## 23

## 24

25  
26  
27

28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

## 2

3

8

10

13

17

## 19

## 20

## 21

22

24

1 deemed a violation of these probation conditions, and may result in the  
2 filing of an accusation and/or petition to revoke probation.

3 15. Respondent's probation is subject to revocation because she failed to  
4 comply with Probation Condition #1, referenced above. Respondent failed to obey all laws and  
5 violated her criminal probation in that on or about November 5, 2005, Respondent was convicted  
6 of driving under the influence of alcohol, as set forth in paragraph 11, above. Further,  
7 Respondent failed to submit to the Board a full and detailed account of her conviction in writing  
8 within seventy-two (72) hours of occurrence.

### 9 **SECOND CAUSE TO REVOKE PROBATION**

#### 10 **(Failed to Submit Written Reports)**

11 16. At all times after the effective date of Respondent's probation, Probation  
12 Condition #5 stated:

13 **Submit Written Reports.** Respondent, during the period of  
14 probation, shall submit or cause to be submitted such written  
15 reports/declarations and verifications of actions under penalty of  
16 perjury, as required by the Board. These reports/declarations shall  
17 contain statements relative to Respondent's compliance with all  
18 the conditions of the Board's Probation Program. Respondent  
19 shall immediately execute all release of information forms as  
20 required by the Board or its representatives.

21 17. Respondent's probation is subject to revocation because she failed to  
22 comply with Probation Condition #5, referenced above, as follows:

23 a. Respondent failed to submit to the Board a timely full and detailed written  
24 account of her November 5, 2005 conviction for driving under the influence of alcohol.

25 b. Respondent failed to submit to the Board a written account of her March  
26 17, 2006 arrest by the Contra Costa Sheriff's Office for allegedly violating Vehicle Code section  
27 23152(b) (driving while having a blood alcohol level of 0.08 or higher).

28 c. Respondent failed to submit to the Board documentation of her alleged  
back surgeries.

d. Respondent failed to submit to the Board documentation regarding her  
alleged prescribed medications.

e. Respondent failed to submit to the Board documentation of on-going

1 therapy.

2 **THIRD CAUSE TO REVOKE PROBATION**

3 **(Failed to Function as a Registered Nurse)**

4 18. At all times after the effective date of Respondent's probation, Probation  
5 Condition #6 stated:

6 **Function as a Registered Nurse.** Respondent, during the period  
7 of probation, shall engage in the practice of registered nursing in  
8 California for a minimum of 24 hours per week for 6 consecutive  
9 months or as determined by the Board. For purposes of  
10 compliance with the section, "engage in the practice of registered  
11 nursing" may include, when approved by the Board, volunteer  
12 work as a registered nurse, or work in any non-direct patient care  
13 position that requires licensure as a registered nurse. The Board  
14 may require that advanced practice nurses engage in advanced  
15 practice nursing for a minimum of 24 hours per week for 6  
16 consecutive months or as determined by the Board. If Respondent  
17 has not complied with this condition during the probationary term,  
18 and Respondent has presented sufficient documentation of her  
19 good faith efforts to comply with this condition, and if no other  
20 conditions have been violated, the Board, in its discretion, may  
21 grant an extension of Respondent's probation period up to one year  
22 without further hearing in order to comply with this condition.  
23 During the one year extension, all original conditions of probation  
24 shall apply.

25 19. Respondent's probation is subject to revocation because she failed to  
26 comply with Probation Condition #6, referenced above. Respondent failed to work as a  
27 registered nurse for a minimum of 24 hours per week for 6 consecutive months. On or about  
28 March 3, 2005, a mental health examiner concluded that Respondent was not capable of  
performing the functions of a registered nurse in a safe and competent manner.

21 **FOURTH CAUSE TO REVOKE PROBATION**

22 **(Failed to Pay Cost Recovery)**

23 20. At all times after the effective date of Respondent's probation, Probation  
24 Condition #11 stated:

25 **Cost Recovery.** Respondent shall pay to the Board costs associated  
26 with its investigation and enforcement pursuant to Business and  
27 Professions Code section 125.3 in the amount of \$3,500.00.  
28 Respondent shall be permitted to pay these costs in a payment plan  
approved by the Board, with payments to be completed no later than  
three months prior to the end of the probation term. If Respondent  
has not complied with this condition during the probationary term,

1 and Respondent has presented sufficient documentation of her good  
2 faith efforts to comply with this condition, and if no other conditions  
3 have been violated, the Board, in its discretion, may grant an extension  
4 of Respondent's probation period up to one year without further hearing  
5 in order to comply with this condition. During the one year extension,  
6 all original conditions of probation will apply.

7 21. Respondent's probation is subject to revocation because she failed to  
8 comply with Probation Condition #11, referenced above. Respondent failed to make cost  
9 recovery payments as agreed in her signed cost recovery payment plan. Respondent owes  
10 \$3,475.00 in cost recovery.

#### 11 **FIFTH CAUSE TO REVOKE PROBATION**

##### 12 **(Failed to Complete a Refresher Course)**

13 22. At all times after the effective date of Respondent's probation, Probation  
14 Condition #14 stated:

15 **Complete a Refresher Course.** Within such time period as shall be  
16 designated by the Board, Respondent shall, at her expense, enroll  
17 and successfully complete a refresher course(s) or equivalent set  
18 of courses. Respondent shall obtain prior approval from the Board  
19 before enrolling in the course(s). Respondent shall submit to the  
20 Board the original transcripts or certificates of completion for the  
21 above required course(s). The Board shall return the original  
22 documents to Respondent after photocopying them for its records.

23 23. Respondent's probation is subject to revocation because she failed to  
24 comply with Probation Condition #14, referenced above. Respondent failed to complete the  
25 registered nurse refresher course.

#### 26 **SIXTH CAUSE TO REVOKE PROBATION**

##### 27 **(Failed to Participate in Treatment/Rehabilitation Program for Chemical Dependency)**

28 24. At all times after the effective date of Respondent's probation, Probation  
Condition #16 stated:

**Participate in Treatment/Rehabilitation Program for Chemical  
Dependency.** Respondent, at her expense, shall successfully complete  
during the probationary period or shall have successfully completed  
prior to commencement of probation a Board-approved  
treatment/rehabilitation program of at least six months duration.  
As required, reports shall be submitted by the program on forms  
provided by the Board. If Respondent has not completed a  
Board-approved treatment/rehabilitation program prior to commencement  
of probation, Respondent, within 45 days from the effective date of the



1 decision, shall be enrolled in a program. If a program is not successfully  
2 completed within the first nine months of probation, the Board shall  
3 consider Respondent in violation of probation. Based on Board  
4 recommendation, each week Respondent shall be required to attend  
5 at least one, but no more than five 12-step recovery meetings or  
6 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.)  
7 and a nurse support group as approved and directed by the Board.  
8 If a nurse support group is not available, an additional 12-step meeting  
9 or equivalent shall be added. Respondent shall submit dated and  
10 signed documentation confirming such attendance to the Board  
11 during the entire period of probation. Respondent shall continue  
12 with the recovery plan recommended by the treatment/rehabilitation  
13 program or a licensed mental health examiner and/or other ongoing  
14 recovery groups.

15 25. Respondent's probation is subject to revocation because she failed to  
16 comply with Probation Condition #16, referenced above. Respondent failed to complete a  
17 treatment/rehabilitation program for chemical dependency.

#### 18 **SEVENTH CAUSE TO REVOKE PROBATION**

##### 19 **(Failed to Abstain from Use of Psychotropic (Mood Altering) Drugs)**

20 26. At all times after the effective date of Respondent's probation, Probation  
21 Condition #17 stated:

##### 22 **Abstain from Use of Psychotropic (Mood-Altering) Drugs.**

23 Respondent shall completely abstain from the possession, injection  
24 or consumption by any route of all Psychotropic (mood altering)  
25 drugs, including alcohol, except when the same are ordered by a  
26 health care professional legally authorized to do so as part of  
27 documented medical treatment. Respondent shall have sent to the  
28 Board, in writing and within fourteen (14) days, by the  
prescribing health professional, a report identifying the medication,  
dosage, the date the medication was prescribed, the Respondent's  
prognosis, the date the medication will no longer be required, and  
the effect on the recovery plan, if appropriate. Respondent shall  
identify for the Board a single physician, nurse practitioner or  
physician assistant who shall be aware of Respondent's history of  
substance abuse and will coordinate and monitor any prescriptions  
for Respondent for dangerous drugs, controlled substances or mood-  
altering drugs. The coordinating physician, nurse practitioner, or  
physician assistant shall report to the Board on a quarterly basis  
Respondent's compliance with this condition. If any substances  
considered addictive have been prescribed, the report shall identify  
a program for the time limited use of any such substances. The Board  
may require the single coordinating physician, nurse practitioner, or  
physician assistant to be a specialist in addictive medicine, or to consult  
with a specialist in addictive medicine.

///

1                   27.     Respondent's probation is subject to revocation because she failed to  
2 comply with Probation Condition #17, referenced above. Respondent failed to abstain from the  
3 use of alcohol by testing positive for alcohol on or about October 13, 2004, November 17, 2004,  
4 June 24, 2005, July 7, 2005, October 28, 2005, November 22, 2005, December 8, 2005,  
5 December 23, 2005, January 10, 2006, February 16, 2006, and February 21, 2006. Further, on or  
6 about June 24, 2005 and July 7, 2005, Respondent tested positive for Hydrocodone and  
7 Dihydrocodeine. On or about October 28, 2005, November 22, 2005, December 8, 2005,  
8 December 23, 2005, February 16, 2006, February 21, 2006 and October 30, 2006, Respondent  
9 tested positive for Tramadol.

#### 10                   **EIGHTH CAUSE TO REVOKE PROBATION**

##### 11                   **(Failed to Submit to Tests and Samples)**

12                   28.     At all times after the effective date of Respondent's probation, Probation  
13 Condition #18 stated:

14                   **Submit to Tests and Samples.** Respondent, at her expense, shall  
15 participate in a random, biological fluid testing or a drug screening  
16 program which the Board approves. The length of time and frequency  
17 will be subject to approval by the Board. Respondent is responsible  
18 for keeping the Board informed of Respondent's current telephone  
19 number at all times. Respondent shall also ensure that messages  
20 may be left at the telephone number when she is not available and  
21 ensure that reports are submitted directly by the testing agency to the  
22 Board, as directed. Any confirmed positive finding shall be reported  
23 immediately to the Board by the program and Respondent shall be  
24 considered in violation of probation. In addition, Respondent, at  
25 any time during the period of probation, shall fully cooperate with the  
26 Board or any of its representatives, and shall, when requested, submit to  
27 such tests and samples as the Board or its representatives may require  
28 for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or  
other controlled substances. If Respondent has a positive drug screen  
for any substance not legally authorized and not reported to the  
coordinating physician, nurse practitioner, or physician assistant, and the  
Board files a petition to revoke probation or an accusation, the Board  
may suspend Respondent from practice pending the final decision on  
the petition to revoke probation or the accusation. This period of  
suspension will not apply to the reduction of this probationary time  
period. If Respondent fails to participate in a random, biological fluid  
testing or drug screening program within the specified time frame,  
Respondent shall immediately cease practice and shall not resume  
practice until notified by the Board. After taking into account  
documented evidence of mitigation, if the Board files a petition to revoke  
probation or an accusation, the Board may suspend Respondent from  
practice pending the final decision on the petition to revoke probation or

1 the accusation. This period of suspension will not apply to the reduction  
2 of this probationary time period.

3 29. Respondent's probation is subject to revocation because she failed to  
4 comply with Probation Condition #18, referenced above. Respondent failed to participate in the  
5 required drug-screening program by failing to appear for drug screening or by failing to keep her  
6 account current with the lab on or about August 17, 2004, December 6, 2004, January 3, 2005,  
7 June 1, 2005, August 8, 2005, August 23, 2005, August 25, 2005, October 12, 2005, November  
8 2, 2005, March 27, 2006, May 11, 2006, and August 17, 2006.

### 9 NINTH CAUSE TO REVOKE PROBATION

#### 10 **(Failed to Undergo Mental Health Examination in a Timely Manner)**

11 30. At all times after the effective date of Respondent's probation, Probation  
12 Condition #19 stated:

13 **Mental Health Examination.** Respondent shall, within 45 days of  
14 the effective date of this Decision, have a mental health examination  
15 including psychological testing as appropriate to determine her  
16 capability to perform the duties of a registered nurse. The examination  
17 will be performed by a psychiatrist, psychologist or other licensed  
18 mental health practitioner approved by the Board. The examining  
19 mental health practitioner will submit a written report of that assessment  
20 and recommendation to the Board. All costs are the responsibility of  
21 Respondent. Recommendations for treatment, therapy or counseling  
22 made as a result of the mental health examination will be instituted  
23 and followed by Respondent. If Respondent is determined to be unsafe  
24 to practice safely as a registered nurse, the licensed mental health care  
25 practitioner making this determination shall immediately notify the  
26 Board and Respondent by telephone, and the Board shall request that  
27 the Attorney General's Office prepare an accusation or petition to  
28 revoke probation. Respondent shall immediately cease practice and  
may not resume practice until notified by the Board. During this  
period of suspension, Respondent shall not engage in any practice for  
which a license issued by the Board is required, until the Board has  
notified Respondent that a mental health determination permits Respondent  
to resume practice. This period of suspension will not apply to the  
reduction of this probationary time period.

29 Respondent's probation is subject to revocation because she failed to comply with  
30 Probation Condition #19, referenced above. Respondent failed to complete the mental health  
31 examination in a timely manner in that she submitted the written report from the mental health  
32 examiner or about March, 2005, despite a due date of May 31, 2004.

33 / / /



- 1    revoking Registered Nurse License No. 320930 issued to Judith L. Spencer Rice;
- 2                    2.    Revoking or suspending Registered Nurse License No. 320930 issued to
- 3    Judith Spencer Rice;
- 4                    3.    Ordering Judith L. Spencer Rice to pay the reasonable costs incurred by
- 5    the Board in the investigation and enforcement of this case pursuant to Business and Professions
- 6    Code section 125.3;
- 7                    4.    Taking such other and further action as deemed necessary and proper.
- 8

9    DATED: 3/26/07

10                    Ruth Ann Terry

11                    RUTH ANN TERRY, M.P.H., R.N.  
12                    Executive Officer  
13                    Board of Registered Nursing  
14                    Department of Consumer Affairs  
15                    State of California  
16                    Complainant

17

18

19

20

21

22

23

24

25

26

27

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Exhibit A**  
**Decision and Order**  
**Board of Registered Nursing Case No. 2004-37**

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JUDITH SPENCER RICE  
3893 Coolidge Avenue  
Oakland, CA 94602

Registered Nursing License No. 320930

Respondent.

Case No. 2004-37

OAH No.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 31, 2004.

It is so ORDERED March 1, 2004.

*Sandra L. Erickson*

\_\_\_\_\_  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

BILL LOCKYER, Attorney General  
of the State of California  
JOSHUA A. ROOM, State Bar No. 214663  
Deputy Attorney General  
California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
Facsimile: (415) 703-5480

Attorneys for Complainant

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JUDITH SPENCER RICE  
3893 Coolidge Avenue  
Oakland, CA 94602

Registered Nursing License No. 320930

Respondent.

Case No. 2004-37

OAH No.

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Registered Nursing of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

2. Judith Spencer Rice (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.



3. On or about August 31, 1980, the Board of Registered Nursing issued Registered Nursing License No. 320930 to Judith Spencer Rice (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2004-37 and will expire on January 31, 2004, unless renewed.

## JURISDICTION

4. Accusation No. 2004-37 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 14, 2003. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2004-37 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2004-37. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2004-37.

9. Respondent agrees that her Registered Nursing License is subject to discipline and she agrees to be bound by the Board of Registered Nursing (Board)'s imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3  
4

5  
6  
7  
8  
9

10  
11  
12  
13  
14  
15

16  
17  
18

19  
20  
21  
22  
23  
24

25  
26

27  
28

1                   4.     **Residency, Practice, or Licensure Outside of State.** Periods of  
2 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
3 of this probation time period. Respondent's probation is tolled, if and when she resides outside  
4 of California. Respondent must provide written notice to the Board within 15 days of any change  
5 of residency or practice outside the state, and within 30 days prior to re-establishing residency or  
6 returning to practice in this state.

7                   Respondent shall provide a list of all states and territories where she has ever been  
8 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
9 provide information regarding the status of each license and any changes in such license status  
10 during the term of probation. Respondent shall inform the Board if she applies for or obtains a  
11 new nursing license during the term of probation.

12                  5.     **Submit Written Reports.** Respondent, during the period of probation,  
13 shall submit or cause to be submitted such written reports/declarations and verification of actions  
14 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
15 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
16 Program. Respondent shall immediately execute all release of information forms as may be  
17 required by the Board or its representatives.

18                  Respondent shall provide a copy of this Decision to the nursing regulatory agency  
19 in every state and territory in which she has a registered nurse license.

20                  6.     **Function as a Registered Nurse.** Respondent, during the period of  
21 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
22 hours per week for 6 consecutive months or as determined by the Board.

23                  For purposes of compliance with the section, "engage in the practice of registered  
24 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
25 work in any non-direct patient care position that requires licensure as a registered nurse.

26                  The Board may require that advanced practice nurses engage in advanced practice  
27 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
28 Board.

1           If Respondent has not complied with this condition during the probationary term,  
2 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
3 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
4 grant an extension of Respondent's probation period up to one year without further hearing in  
5 order to comply with this condition. During the one year extension, all original conditions of  
6 probation shall apply.

7           **7. Employment Approval and Reporting Requirements.** Respondent  
8 shall obtain prior approval from the Board before commencing or continuing any employment,  
9 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
10 performance evaluations and other employment related reports as a registered nurse upon request  
11 of the Board.

12           Respondent shall provide a copy of this Decision to her employer and immediate  
13 supervisors prior to commencement of any nursing or other health care related employment.

14           In addition to the above, Respondent shall notify the Board in writing within  
15 seventy-two (72) hours after she obtains any nursing or other health care related employment.  
16 Respondent shall notify the Board in writing within seventy-two (72) hours after she is  
17 terminated or separated, regardless of cause, from any nursing, or other health care related  
18 employment with a full explanation of the circumstances surrounding the termination or  
19 separation.

20           **8. Supervision.** Respondent shall obtain prior approval from the Board  
21 regarding Respondent's level of supervision and/or collaboration before commencing or  
22 continuing any employment as a registered nurse, or education and training that includes patient  
23 care.

24           Respondent shall practice only under the direct supervision of a registered nurse  
25 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
26 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
27 are approved.

28   ///

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

///

1 Respondent shall work only on a regularly assigned, identified and predetermined  
2 worksite(s) and shall not work in a float capacity.

3 If Respondent is working or intends to work in excess of 40 hours per week, the  
4 Board may request documentation to determine whether there should be restrictions on the hours  
5 of work.

6 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall  
7 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
8 than six months prior to the end of her probationary term.

9 Respondent shall obtain prior approval from the Board before enrolling in the  
10 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
11 completion for the above required course(s). The Board shall return the original documents to  
12 Respondent after photocopying them for its records.

13 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with  
14 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
15 amount of \$3,500.00. Respondent shall be permitted to pay these costs in a payment plan  
16 approved by the Board, with payments to be completed no later than three months prior to the  
17 end of the probation term.

18 If Respondent has not complied with this condition during the probationary term,  
19 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
20 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
21 grant an extension of Respondent's probation period up to one year without further hearing in  
22 order to comply with this condition. During the one year extension, all original conditions of  
23 probation will apply.

24 12. **Violation of Probation.** If Respondent violates the conditions of her  
25 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
26 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's  
27 license.

28 ///

1           If during the period of probation, an accusation or petition to revoke probation has  
2 been filed against Respondent's license or the Attorney General's Office has been requested to  
3 prepare an accusation or petition to revoke probation against Respondent's license, the  
4 probationary period shall automatically be extended and shall not expire until the accusation or  
5 petition has been acted upon by the Board.

6           **13. License Surrender.** During Respondent's term of probation, if she ceases  
7 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
8 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
9 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
10 take any other action deemed appropriate and reasonable under the circumstances, without  
11 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
12 will no longer be subject to the conditions of probation.

13           Surrender of Respondent's license shall be considered a disciplinary action and  
14 shall become a part of Respondent's license history with the Board. A registered nurse whose  
15 license has been surrendered may petition the Board for reinstatement no sooner than the  
16 following minimum periods from the effective date of the disciplinary decision:

17           (1) Two years for reinstatement of a license that was surrendered for any  
18 reason other than a mental or physical illness; or

19           (2) One year for a license surrendered for a mental or physical illness.

20           **14. Complete a Refresher Course.** Within such time period as shall be  
21 designated by the Board, Respondent shall, at her expense, enroll and successfully complete a  
22 refresher course(s) or equivalent set of courses.

23           Respondent shall obtain prior approval from the Board before enrolling in the  
24 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
25 completion for the above required course(s). The Board shall return the original documents to  
26 Respondent after photocopying them for its records.

27 ///

28 ///



1                   15.    **Physical Examination.** Within 45 days of the effective date of this  
2 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or  
3 physician assistant, who is approved by the Board before the assessment is performed, submit an  
4 assessment of the Respondent's physical condition and capability to perform the duties of a  
5 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
6 medically determined, a recommended treatment program will be instituted and followed by the  
7 Respondent with the physician, nurse practitioner, or physician assistant providing written  
8 reports to the Board on forms provided by the Board.

9                   If Respondent is determined to be unable to practice safely as a registered nurse,  
10 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
11 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
12 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
13 shall immediately cease practice and shall not resume practice until notified by the Board.  
14 During this period of suspension, Respondent shall not engage in any practice for which a license  
15 issued by the Board is required until the Board has notified Respondent that a medical  
16 determination permits Respondent to resume practice. This period of suspension will not apply  
17 to the reduction of this probationary time period.

18                   If Respondent fails to have the above assessment submitted to the Board within  
19 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
20 practice until notified by the Board. This period of suspension will not apply to the reduction of  
21 this probationary time period. The Board may waive or postpone this suspension only if  
22 significant, documented evidence of mitigation is provided. Such evidence must establish good  
23 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
24 provided. Only one such waiver or extension may be permitted.

25 ///

26 ///

27 ///

28 ///

1                   16.     **Participate in Treatment/Rehabilitation Program for Chemical**  
2 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary  
3 period or shall have successfully completed prior to commencement of probation a Board-  
4 approved treatment/rehabilitation program of at least six months duration. As required, reports  
5 shall be submitted by the program on forms provided by the Board. If Respondent has not  
6 completed a Board-approved treatment/rehabilitation program prior to commencement of  
7 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
8 a program. If a program is not successfully completed within the first nine months of probation,  
9 the Board shall consider Respondent in violation of probation.

10                   Based on Board recommendation, each week Respondent shall be required to  
11 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
12 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed  
13 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
14 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
15 such attendance to the Board during the entire period of probation. Respondent shall continue  
16 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
17 mental health examiner and/or other ongoing recovery groups.

18                   17.     **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
19 shall completely abstain from the possession, injection or consumption by any route of all  
20 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a  
21 health care professional legally authorized to do so as part of documented medical treatment.  
22 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the  
23 prescribing health professional, a report identifying the medication, dosage, the date the  
24 medication was prescribed, the Respondent's prognosis, the date the medication will no longer  
25 be required, and the effect on the recovery plan, if appropriate.

26 ///

27 ///

28 ///

1 Respondent shall identify for the Board a single physician, nurse practitioner or  
2 physician assistant who shall be aware of Respondent's history of substance abuse and will  
3 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
4 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
5 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
6 condition. If any substances considered addictive have been prescribed, the report shall identify a  
7 program for the time limited use of any such substances.

8 The Board may require the single coordinating physician, nurse practitioner, or  
9 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
10 addictive medicine.

11 18. **Submit to Tests and Samples.** Respondent, at her expense, shall  
12 participate in a random, biological fluid testing or a drug screening program which the Board  
13 approves. The length of time and frequency will be subject to approval by the Board.  
14 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
15 number at all times. Respondent shall also ensure that messages may be left at the telephone  
16 number when she is not available and ensure that reports are submitted directly by the testing  
17 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
18 to the Board by the program and Respondent shall be considered in violation of probation.

19 In addition, Respondent, at any time during the period of probation, shall fully  
20 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
21 tests and samples as the Board or its representatives may require for the detection of alcohol,  
22 narcotics, hypnotics, dangerous drugs, or other controlled substances.

23 If Respondent has a positive drug screen for any substance not legally authorized  
24 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
25 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
26 from practice pending the final decision on the petition to revoke probation or the accusation.  
27 This period of suspension will not apply to the reduction of this probationary time period.

28 ///

1           If Respondent fails to participate in a random, biological fluid testing or drug  
2 screening program within the specified time frame, Respondent shall immediately cease practice  
3 and shall not resume practice until notified by the Board. After taking into account documented  
4 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
5 Board may suspend Respondent from practice pending the final decision on the petition to  
6 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
7 this probationary time period.

8           19.   **Mental Health Examination.** Respondent shall, within 45 days of the  
9 effective date of this Decision, have a mental health examination including psychological testing  
10 as appropriate to determine her capability to perform the duties of a registered nurse. The  
11 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
12 practitioner approved by the Board. The examining mental health practitioner will submit a  
13 written report of that assessment and recommendations to the Board. All costs are the  
14 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
15 result of the mental health examination will be instituted and followed by Respondent.

16           If Respondent is determined to be unable to practice safely as a registered nurse,  
17 the licensed mental health care practitioner making this determination shall immediately notify  
18 the Board and Respondent by telephone, and the Board shall request that the Attorney General's  
19 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
20 practice and may not resume practice until notified by the Board. During this period of  
21 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
22 is required, until the Board has notified Respondent that a mental health determination permits  
23 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
24 probationary time period.

25   ///

26   ///

27   ///

28   ///

1 If Respondent fails to have the above assessment submitted to the Board within  
2 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
3 practice until notified by the Board. This period of suspension will not apply to the reduction of  
4 this probationary time period. The Board may waive or postpone this suspension only if  
5 significant, documented evidence of mitigation is provided. Such evidence must establish good  
6 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
7 provided. Only one such waiver or extension may be permitted.

8 20. **Therapy or Counseling Program.** Respondent, at her expense, shall  
9 participate in an on-going counseling program until such time as the Board releases her from this  
10 requirement and only upon the recommendation of the counselor. Written progress reports from  
11 the counselor will be required at various intervals.

12  
13 ACCEPTANCE

14 I have carefully read this Stipulated Settlement and Disciplinary Order. I  
15 understand the stipulation and the effect it will have on my Registered Nursing License. I enter  
16 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,  
17 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

18 DATED: November 3, 2003 (1500)

19 Judith Spencer Rice  
20 JUDITH SPENCER RICE  
Respondent

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: November 5, 2003.

BILL LOCKYER, Attorney General  
of the State of California

  
\_\_\_\_\_  
JOSHUA A. ROOM  
Deputy Attorney General  
Attorneys for Complainant

**Exhibit A**  
**Accusation No. 2004-37**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JOSHUA A. ROOM, State Bar No. 214663  
Deputy Attorney General  
3 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
4 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2004-37

11 JUDITH SPENCER RICE

OAH No.

12 3893 Coolidge Avenue  
Oakland, CA 94602

**A C C U S A T I O N**

13 Registered Nursing License No. 320930

14 Respondent.  
15

16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
20 Department of Consumer Affairs.

21 2. On or about August 31, 1980, the Board of Registered Nursing issued  
22 Registered Nursing License Number 320930 to Judith Spencer Rice (Respondent). The  
23 Registered Nursing License was in full force and effect at all times relevant to the charges  
24 brought herein and will expire on January 31, 2004, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing  
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code (Code) unless otherwise indicated.



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 2
- 3
- 4

5  
6  
7

8

9  
10

11

12

13  
14  
15

16

17

18  
19  
20  
21  
22

23

24

25

26

27

28

8. Section 2762 of the Code states, in pertinent part:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

“(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

///

///

///

///

///

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

## 2

3  
4  
5  
6  
7

8  
9  
10  
11

12  
13  
14  
15

16  
17  
18  
19  
20  
21

22  
23  
24  
25  
26  
27  
28

1                   15.     On or about September 12, 2002, the Diversion Evaluation Committee of  
2 the Board of Registered Nursing terminated Respondent from the Diversion Program for being  
3 non-compliant, determined that Respondent presented a threat to the public or his or her own  
4 health and safety, and reported Respondent's name and license number to Board enforcement.  
5 Respondent was deemed non-compliant based on circumstances including the following:

- 6                   a.     Respondent arrived at her first meeting with the Diversion  
7 Evaluation Committee (in March 2002) in what appeared to be an inebriated state;  
8                   b.     Respondent did not complete residential substance abuse treatment  
9 as was ordered by the Diversion Evaluation Committee;  
10                  c.     Respondent appeared inebriated during her participation in her  
11 nurse support group made available through the Diversion Program;  
12                  d.     Respondent appeared for her second meeting with the Diversion  
13 Evaluation Committee (in September 2002) smelling of alcohol and appearing inebriated;  
14                  e.     Without adequate explanation, Respondent failed to appear for a  
15 scheduled laboratory toxicology test on or about July 8, 2002;  
16                  f.     As described below, Respondent was arrested and subsequently  
17 charged for driving under the influence of alcohol on or about July 6, 2002.

18  
19                                   SECOND CAUSE FOR DISCIPLINE

20                                   (Conviction of Crime Involving Alcoholic Beverages)

21                   16.     Respondent is subject to disciplinary action under section 2762(c) of the  
22 Code in that on or about February 6, 2003, in a criminal proceeding entitled *People v. Judith*  
23 *Spencer Rice* in Sonoma County Superior Court, Case Number TCR-402654, Respondent was  
24 convicted by plea of no contest of one count of violation of Vehicle Code section 23152(b)  
25 (driving while having a blood alcohol level of .08 or higher), a misdemeanor. This conviction  
26 was entered in the Sonoma County Superior Court as follows:

27     ///

28     ///

1 a. On or about July 6, 2002, Respondent was the driver of a vehicle  
2 involved in an accident with another vehicle. Responding officers noted the odor of alcohol on  
3 Respondent's breath, administered a field sobriety test to Respondent, and determined that she  
4 was under the influence of alcohol. Due to Respondent's symptoms of intoxication and possible  
5 injury suffered by passengers in the other vehicle in the collision, Respondent was placed under  
6 arrest. A subsequent blood test revealed Respondent's blood alcohol level to be 0.27.

7 b. Respondent was subsequently charged with one count pursuant to  
8 Vehicle Code section 23153(a) by reference to Vehicle Code section 22350 (driving while under  
9 the influence of alcohol at an unsafe speed and proximately causing bodily injury), and one count  
10 pursuant to Vehicle Code section 23153(b) by reference to Vehicle Code section 22350 (driving  
11 while having a blood alcohol level of 0.08 or higher at an unsafe speed and proximately causing  
12 bodily injury), both misdemeanors with allegations of blood alcohol level of 0.20 or higher.

13 c. On or about February 6, 2003, in the case of *People v. Judith*  
14 *Spencer Rice*, Case No. TCR-402654 in Sonoma County Superior Court, the two counts under  
15 Vehicle Code section 23153 were dismissed and Respondent pled no contest to and admitted the  
16 factual basis for a substituted count pursuant to Vehicle Code section 23152(b) (driving while  
17 having a blood alcohol level of 0.08 or higher), a misdemeanor with an admitted enhancement  
18 pursuant to Vehicle Code section 23578 for having a blood alcohol level of 0.20 or higher.

19 d. On or about February 6, 2003, Respondent was sentenced as  
20 follows: a conditional sentence of 36 months, conditioned on successful completion of Highland  
21 Hospital Substance Abuse Program, random alcohol testing, a drunken driver education program,  
22 payment of fines and court restitution, and a restricted driver's license for three months.

### 23 24 THIRD CAUSE FOR DISCIPLINE

25 (Conviction of Substantially Related Offense)

26 17. Respondent is subject to disciplinary action under section 2761(f) of the  
27 Code in that as described in paragraph 16, Respondent was convicted of driving while having a  
28 blood alcohol level of 0.08 or higher, an offense substantially related to the practice of nursing.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 18. Respondent is subject to disciplinary action under section 2761(a) of the  
4 Code in that the acts described in paragraphs 10-17 above constitute unprofessional conduct.

5  
6 PRAYER


7 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
8 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

9 1. Revoking or suspending Registered Nursing License Number 320930,  
10 issued to Judith Spencer Rice.

11 2. Ordering Judith Spencer Rice to pay the Board of Registered Nursing the  
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
13 Professions Code section 125.3;

14 3. Taking such other and further action as is deemed necessary and proper.

15 DATED: 8/7/03

16  
17   
18 RUTH ANN TERRY M.P.H., R.N.  
19 Executive Officer  
20 Board of Registered Nursing  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

24  
25 SF2003400042

26  
27 Accusation.wpd  
28